IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT PETITION No. 8438 of 2004

Between:

Md.Musharraf, S/o.Shariff, Prop.of Apollo Nia Electric Dry Cleaners, Vijaya Vihar Centre Navera Lodge, Ground floor, Eluru,
West Godavari District.

..... PETITIONER

AND

1. K.Vennapa Swamy, S/o.Venkataratnam,
Western Street, Eluru, West Godavari Dist.
2.The A.P.State Reddressal Commission, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more particularly one in the nature of Writ of Mandamus calling for the records from the 2nd respondent in F.A. No.244/2003 and set aside the impugned order dated 26.09.2004 passed in F.A.No.244/2003 along with the order in Review I.A.Sr.No.6924/2003 dated 6-02-2004.

Counsel for the Petitioner:Smt. N (P) Anjana Devi

Counsel for the Respondent No.1: Mr.Potti Venkataramana Rao.

Counsel for Respondent No.2: None appeared.

The Court at the admission stage made the following :

ORAL ORDER:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The respondent filed a complaint (Consumer Dispute No. 84 of 2002) under Section 12 of the Consumer Protection Act before the District Consumer Forum, West Godavari at Eluru. Complaint was allowed with direction to the petitioner herein to pay a sum of Rs.2,500/- to the respondent within a period of one month. Aggrieved by the said order, the complainant preferred appeal in F.A.No.244 of 2003 before the A.P. State Consumer Disputes Redressal Commission, Hyderabad. Appeal was heard and decided in the absence of the respondent-writ petitioner and the order says that though notice in the appeal was sent, but it was returned as refused. In the appeal, the A.P. State Consumer Disputes Redressal Commission, Hyderabad on the basis of the receipts produced by the appellant enhanced the amount of compensation to Rs.7,500/-. The order is now under challenge in the Writ Petition.

The grievance of the petitioner is that no notice was served or tendered, and, thus, there was no opportunity for the petitioner to contest, and, in any case, there was no occasion for producing additional evidence.

We have heard the learned counsel for parties.

The learned counsel for respondent has no objection, in case, the impugned order passed by the Andhra Pradesh State Consumer Disputes Redressal Commission, Hyderabad is set aside with direction to dispose of F.A.No. 244 of 2003 afresh in accordance with law.

In view of the above, we allow the Writ Petition and set aside the order dated: 26.9.2004 passed in F.A.No. 244 of 2003 by the A.P. State Consumer Disputes Redressal Commission, Hyderabad with direction to the State Consumer Disputes Redressal Commission, Hyderabad to decide the appeal afresh after hearing the parties, and, it is needless to add that it will be open to the petitioner herein to raise all objections, as may be permissible in law, in the Appeal.

Parties are directed to appear before the A.P. State Consumer Disputes Redressal Commission, Hyderabad on 14.2.2005. No costs.

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DEVINDER GUPTA, C.J.

17.1.2005

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M.NARAYANA REDDY, J.

VR.

Note:

A copy of this order be marked to

the A.P. State Consumer Disputes Redressal

Commission, Hyderabad.

(BO)

To

1. The Registrar, A.P. State Consumer Disputes Redressal Commission, Hyderabad.

2. Two CD copies.